

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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## THOMAS WRAY HERNDON,

Case No. 3:20-cv-00489-MMD-CLB

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**Petitioner,**

## ORDER

DWIGHT NEVEN, *et al.*,

## Respondents.

11 Petitioner Thomas Herndon, a Nevada state prisoner, has submitted a *pro se*  
12 petition for writ of *habeas corpus* under 28 U.S.C. § 2254. (ECF No. 1) This habeas matter  
13 is before the Court for consideration of Petitioner's application to proceed *in forma*  
14 *pauperis* (IFP). (ECF No. 5.)

Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. A federal district court may authorize a person to begin an action without prepaying fees and costs if the person submits an IFP application on the approved form along with the appropriate supporting documentation. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

20        Although Petitioner submitted the required form, the supporting documents show  
21 Petitioner is able to pay the \$5.00 filing fee. Thus, Petitioner does not qualify for a fee  
22 waiver. The Court therefore denies Petitioner's IFF application and gives him 45 days to  
23 pay the filing fee.<sup>1</sup>

24 It is therefore ordered that Petitioner's application to proceed *in forma pauperis*  
25 (ECF No. 5) is denied.

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<sup>28</sup> <sup>1</sup>On October 11, 2020, Petitioner notified the Court that he has already submitted a brass slip to prison officials to pay the \$5.00 filing fee.

1       It is further ordered that Petitioner must pay the \$5.00 filing fee by November 30,  
2 2020.

3       The Clerk of Court is directed to mail Petitioner *two* copies of this order. If possible,  
4 Petitioner should arrange to have a copy of this order attached to the check for the filing  
5 fee.

6       The initial screening of the petition for writ of *habeas corpus* (ECF No. 1-1) under  
7 the Rules Governing Section 2254 Cases and consideration of Petitioner's motion for  
8 appointment of counsel (ECF No. 4) are deferred until such time as Petitioner has fully  
9 complied with this order.

10      Failure to timely comply with this order will result in the dismissal of this action  
11 without further advance notice.

12      DATED THIS 16<sup>th</sup> Day of October 2020.



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15      MIRANDA M. DU  
16      CHIEF UNITED STATES DISTRICT JUDGE  
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